

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

In re: Testosterone Replacement Therapy) Case No. 14 C 1748
Products Liability Litigation) MDL 2545

This document relates to all cases

[CORRECTED PROPOSED] MDL CASE MANAGEMENT ORDER NO. ____
(Plaintiffs' Leadership)

In accordance with Corrected MDL Case Management Order No. 4 entered August 1, 2014 (Docket No. 244) ("CMO No. 4"), and the Court having carefully reviewed the submissions of the parties, it is hereby **ORDERED** that the attorneys designated herein shall serve as Plaintiffs' co-lead counsel, executive committee, steering committee and co-liaison counsel (collectively, the "Plaintiffs' Leadership"), and have the responsibilities described below.

A. Appointment of Plaintiffs' Leadership

1. Plaintiffs' Co-Lead Counsel. As set forth in CMO No. 4, the Court has appointed the following three attorneys to serve as Plaintiffs' Co-Lead Counsel for a one-year term expiring on August 15, 2015, with the opportunity to apply for reappointment:

Ronald Johnson, Jr.
SCHACHTER, HENDY & JOHNSON PSC
909 Wrights Summit Parkway, Suite 210
Ft. Wright, KY 41011
Phone: (859) 578-4444
Fax: (859) 578-4440
Email: rjohnson@pschacter.com

Trent B. Miracle
SIMMONS HANLY CONROY
One Court Street
Alton, IL 62002
Phone: (618) 259-2222
Fax: (618) 259-2252
Email: tmiracle@simmonsfirm.com

Christopher A. Seeger
SEEGER WEISS LLP
77 Water Street
New York, NY 10005
Phone: (212) 584-0700
Fax: (212) 584-0799
Email: cseeger@seegerweiss.com

2. Plaintiffs' Executive Committee. As set forth in CMO No. 4, the Court has appointed the following seven attorneys to serve together with Plaintiffs' Co-Lead Counsel as the members of the Plaintiffs' Executive Committee (the "PEC") for a one-year term expiring on August 15, 2015, with the opportunity to apply for reappointment:

Michael London (Chairperson of the PEC)
DOUGLAS & LONDON
59 Maiden Lane, 6th Floor
New York, NY 10038
Phone: (212) 566-7500
Fax: (212) 566-7501
Email: mlondon@douglasandlondon.com

Michael Papantonio
LEVIN, PAPANTONIO, THOMAS,
MITCHELL, RAFFERTY &
PROCTOR, PA
316 South Baylen Street, Suite 400
Pensacola, FL 32502
Phone: (850) 435-7138
Fax: (850) 436-6138
Email: mpapantonio@levinlaw.com

Seth A. Katz
BURG SIMPSON ELDREDGE HERSH &
JARDINE, P.C.
40 Inverness Drive East
Englewood, CO 80112
Phone: (303) 792-5595
Fax: (303) 708-0527
Email: skatz@burgsimpson.com

Timothy Becker
JOHNSON BECKER PLLC
33 S. 6th Street, Suite 4530
Minneapolis, MN 55402
Phone: (612) 436-1804
Fax: (612) 436-1801
Email: tbecker@johnsonbecker.com

Maury A. Herman
HERMAN, HERMAN & KATZ LLC
820 O'Keefe Avenue
New Orleans, LA 70113
Phone: (504) 581-4892
Fax: (504) 561-6024
Email: mherman@hhklawfirm.com

Michelle L. Kranz
ZOLL, KRANZ & BORGESS LLC
6620 West Central Avenue, Suite 100
Toledo, OH 43617
Phone: (419) 841-9623
Fax: (419) 841-9719
Email: michelle@toledolaw.com

Bill Robins
HEARD ROBINS CLOUD & BLACK LLP
808 Wilshire, Suite 450
Santa Monica, California 90401
Phone: (310) 929-4200
Fax: (310) 566-5900
Email: robins@heardrobins.com

3. Plaintiffs' Steering Committee. As set forth in CMO No. 4, the Court has appointed the following 21 attorneys together with Plaintiffs' Co-Lead Counsel and the PEC to serve as the members of the Plaintiffs' Steering Committee (the "PSC") for a one-year term expiring on August 15, 2015, with the opportunity to apply for reappointment:

Martin D. Crump
DAVIS CRUMP, PC
1712 15th St., Suite 300
Gulfport, MS 39501
Phone: (228) 863-6000
Fax: (228) 864-0907
martincrump@daviscrump.com

T. Matthew Leckman
POGUST, BRASLOW &
MILLROOD, LLC
8 Tower Bridge
161 Washington Street, Suite 1520
Conshohocken, PA 19428
Phone: (610) 941-4204
Fax: (610) 941-4245
Email: mleckman@pbmattorneys.com

Lawrence J. Gornick
KAISER GORNICK LLP
100 First Street, 25th Floor
San Francisco, CA 94105
Phone: (415) 857-7400
Fax: (415) 857-7499
Email: lgornick@kaisergornick.com

Matthew Teague
BEASLEY, ALLEN, CROW, METHVIN,
PORTIS & MILES, P.C.
234 Commerce Street
Montgomery, AL 36104
Phone: (334) 269-2343
Fax: (334) 954-7555
Email: Matt.Teague@BeasleyAllen.com

Gregory S. Spizer
ANAPOL SCHWARTZ
1710 Spruce Street
Philadelphia, PA 19103
Phone: (215) 790-4578
Fax: (215) 875-7722
Email: gspizer@anapolschwartz.com

Frank Petosa
MORGAN & MORGAN, P.A.
500 N. Pine Island Road
Suite 400
Plantation, FL 33324
Phone: (954) 318-0268
Fax: (954) 327-3018
Email: Fpetosa@forthepeople.com

Kristine K. Kraft
SCHLICHTER, BOGARD & DENTON,
LLP
100 South Fourth Street, Suite 900
St. Louis, MO 63102
Phone: (314) 621-6115
Fax: (314) 621-7151
Email: kkraft@uselaws.com

Elwood C. Stevens, Jr.
DOMENGEAUX, WRIGHT, ROY &
EDWARDS, L.L.C.
556 Jefferson St, Suite 500
Lafayette, LA 70501
Phone: (337) 233-3033
Fax: (337) 291-4878
Email: elwoods@wrightroy.com

Christopher V. Tisi
ASHCRAFT & GEREL, LLP
4900 Seminary Road, Suite 650
Alexandria, VA 22311
Phone: (703) 931-5500
Fax: (703) 820-1656
Email: mparf@aol.com

Arnold Levin
LEVIN, FISHBEIN, SEDRAN &
BERMAN
510 Walnut Street, Suite 500
Philadelphia, PA 19106
Phone: (215) 592-1500
Fax: (215) 592-4663
Email: alevin@lfsblaw.com

Alex H. MacDonald
MACDONALD, ROTHWEILER,
EISENBERG, LLP
One Bowdoin Square
Boston, MA 02114
Phone: (617) 747-7590
Fax: (617) 747-7551
Email: amacdonald@mrelegal.com

Mark A. Hoffman
ROSS FELLER CASEY, LLP
One Liberty Place
1650 Market Street, Suite 3450
Philadelphia, PA 19103
Phone: (215) 574-2000
Fax: (215) 231-3750
Email: mhoffman@rossfellercasey.com

Dawn M. Barrios
BARRIOS, KINGSDORF &
CASTIEX, LLP
701 Poydras Street, Suite 3650
New Orleans, LA 70139
Phone: (504) 524-3300
Fax: (504) 524-3313
Email: barrios@bkc-law.com

Derriel C. McCorvey
THE LAW OFFICE OF DERRIEL
MCCORVEY
115 W. Main
Lafayette, LA 70501
Phone: (337) 291-2431
Fax: (337) 291-2433
Email: derriel@mccorveylaw.com

Roger W. Orlando
THE ORLANDO FIRM, P.C.
315 W. Ponce de Leon Avenue, Suite 400
Decatur, GA 30030
Phone: (404) 373-1800
Fax: (404) 373-6999
Email: roger@OrlandoFirm.com

Rachel Abrams
LEVIN SIMES
353 Sacramento Street, Suite 2000
San Francisco, CA 94111
Phone: (415) 426-3000
Fax: (415) 426-3000
Email: rabrams@levinsimes.com

W. Mark Lanier
THE LANIER LAW FIRM PC
6810 FM 1960 West
Houston, TX 77069
Phone: (713) 659-5200
Fax: (713) 659-2204
Email: wml@lanierlawfirm.com

David S. Ratner
MORELLI, ALTERS, RATNER LLP
777 Third Avenue, 31st Floor
New York, NY 10017
Phone: (212) 751-9800
Fax: (212) 751-0046
Email: dratner@morellialters.com

Yvonne M. Flaherty
LOCKRIDGE GRINDAL
NAUEN P.L.L.P.
100 Washington Avenue S, Suite 2200
Minneapolis MN 55401
Phone: (612) 339-6900
Fax: (612) 339-0981
Email: ymflaherty@locklaw.com

Dianne M. Nast
NASTLAW LLC
1101 Market Street, Suite 2801
Philadelphia, PA 19107
Phone: (215) 923-9300
Fax: (215) 923-9302
Email: dnast@nastlaw.com

Kathleen Chavez
FOOTE, MIELKE, CHAVEZ &
O'NEIL LLC
10 West State Street, Suite 200
Geneva, IL 60134
Phone: (630) 232-4480
Fax: (630) 232-7452
Email: kcc@fmcolaw.com

4. Plaintiffs' Co-Liaison Counsel. As set forth in CMO No. 4, the Court has appointed the following two attorneys to serve as Plaintiffs' Co-Liaison Counsel for a one-year term expiring on August 15, 2015, with the opportunity to apply for reappointment:

Brian J. Perkins
MEYERS & FLOWERS
225 West Wacker Drive, Suite 1515
Chicago, IL 60606
Phone: (312) 214-1017
Fax: (630) 845-8982
Email: bjp@meyers-flowers.com

Myron Cherry
MYRON M. CHERRY & ASSOCIATES
30 N. LaSalle Street, Suite 2300
Chicago, Illinois 60602
Phone: (312) 372-2100
Fax: (312) 853-0279
E-mail: mcherry@cherry-law.com

B. Responsibilities of Plaintiffs' Leadership

1. Responsibilities of Plaintiffs' Co-Lead Counsel. In consultation with the PEC, Plaintiffs' Co-Lead Counsel shall be generally responsible for coordinating the activities of Plaintiffs in conducting this litigation toward final resolution. Plaintiffs' Co-Lead Counsel shall take the lead in litigating these matters on behalf of all Plaintiffs, meaning that they shall play the lead role in making strategic, tactical, and procedural decisions on behalf of the Plaintiffs' counsel

and *pro se* Plaintiffs. Of course, the Court recognizes that all Plaintiffs' counsel and all Plaintiffs retain the right to choose to act in their own best interest in these proceedings, but the large number of attorneys and Plaintiffs requires a substantial amount of coordination of litigation efforts. To that end, Plaintiffs' Co-Lead Counsel – either personally or by coordinating the efforts of others – shall perform the following duties, among others:

Discovery

- a. Initiate, coordinate and conduct all generic pretrial discovery on behalf of all Plaintiffs who file civil actions in this Court or that are transferred to this Court pursuant to 28 U.S.C. § 1407 and which are consolidated with this multidistrict litigation;
- b. Develop and propose to the Court schedules for the conduct and completion of all discovery on behalf of all Plaintiffs;
- c. Initiate, coordinate, and cause to be issued in the name of all Plaintiffs, the necessary discovery requests, motions, and subpoenas pertaining to any witness and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation (similar requests, notices, subpoenas may be caused to be issued by Plaintiffs' Co-Lead Counsel upon written request by an individual attorney in order to assist him or her in preparation of the pretrial stages of his or her client's particular claims);
- d. Identify witnesses to be noticed for deposition, schedule witness depositions and determine the lead examiner(s) for each noticed deposition;

- e. Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all Plaintiffs;

Motion Practice and Hearings

- f. Submit any motions presented to the Court on behalf of all Plaintiffs as well as oppose, as appropriate, any motions submitted by the Defendants or third parties;
- g. Examine or designate other counsel to examine witnesses and introduce evidence at hearings on behalf of Plaintiffs;
- h. Act or designate other counsel to act as spokesperson(s) for Plaintiffs at pretrial proceedings and in response to any inquiries by the Court;

Contact with Defense Counsel

- i. Initiate, coordinate and conduct the requisite meet and confers with Defendants, confer with Defendants regarding procedural matters, and negotiate and enter into stipulations and case management orders with Defendants regarding this litigation;
- j. Explore or designate other counsel to explore, develop, and pursue settlement options with Defendants on behalf of Plaintiffs;

Oversight of Plaintiffs' Counsel

- k. Call meetings of Plaintiffs' counsel for any appropriate purpose;
- l. Assign litigation-related tasks to Plaintiffs' counsel who communicate their willingness to work for the common benefit of all Plaintiffs, taking into consideration the particular strengths and weaknesses of counsel requesting such assignments;

- m. Monitor the activities of the PEC, PSC and other co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;

Committee Formation

- n. Plaintiffs' Co-Lead Counsel shall have the power to form committees and appoint committee chairs for specific litigation tasks, including but not limited to the following: (i) Discovery; (ii) Law and Briefing; (iii) Science/Experts; (iv) Trial; and (v) others as the need may arise;

Trial Preparation

- o. Coordinate trial team(s)'s selection, management and presentation of any "bellwether" and/or "test" case trial(s); and

Other

- p. Perform such other duties as may be incidental to proper coordination of Plaintiffs' activities or authorized by further order of the Court.

2. ***Communications with the Court:*** All communications from Plaintiffs with the Court should be through Plaintiffs' Co-Lead Counsel or Co-Liaison Counsel. If circumstances require direct correspondence with the Court by an individual counsel, copies of any said communications shall simultaneously be served upon all three Plaintiffs' Co-Lead Counsel and both Co-Liaison Counsel by email.

3. ***Responsibilities of Plaintiffs' Executive Committee.*** The PEC shall from time to time consult with Plaintiffs' Co-Lead Counsel, the PSC and Co-Liaison Counsel in coordinating the Plaintiffs' pretrial activities and in planning for trial.

4. ***Responsibilities of Plaintiffs' Steering Committee.*** The members of the PSC shall consult with Plaintiffs' Co-Lead Lead, the PEC and Co-Liaison Counsel in coordinating the Plaintiffs' pretrial activities and in planning for trial. The PSC shall be authorized to perform work only based upon assignments received from Plaintiffs' Co-Lead Counsel (or their designees), or a committee chairperson appointed by Plaintiffs' Co-Lead Counsel.

5. ***Responsibilities of Plaintiffs' Co-Liaison Counsel.*** Plaintiffs' liaison counsel shall:

- a. Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from opposing parties and counsel;
- b. Coordinate service and filings for Plaintiffs;
- c. Maintain and distribute to co-counsel and to Defendants' Liaison Counsel an up-to-date service list;
- d. Act as Plaintiffs' treasurer for any common benefit fund and/or assessments;
- e. Maintain and make available to all Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository); and
- f. Carry out such other duties as the Court may Order.

6. ***Common Benefit Time and Expenses.*** Plaintiffs' Co-Lead Counsel shall prepare and submit to the Court a proposal for the authorization by Co-Lead Counsel and the PEC of common benefit time and expenses and the standards and procedures to be used by any counsel seeking fees and expenses in this case.

7. ***Privileges Preserved.*** The Court recognizes that cooperation by and among Plaintiffs' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between Plaintiffs' counsel shall not be deemed a waiver of any privilege or protection, including without limitation the attorney-client privilege and/or the work product doctrine, if the privilege or protection is otherwise applicable. The cooperative efforts contemplated above shall in no way be used against any Plaintiff by any Defendant. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work product doctrine.

It is so ordered.

MATTHEW F. KENNELL
UNITED STATES DISTRICT JUDGE

Date: August ___, 2014